

**KANSAS DEPARTMENT OF ADMINISTRATION
ECONOMIC IMPACT STATEMENT
K.A.R. 1-2-74; K.A.R. 1-6-23; K.A.R. 1-7-11; K.A.R. 1-9-23;
K.A.R. 1-14-8 and K.A.R. 1-14-10**

I. Summary of Proposed Amendments to Regulations, Including Purpose.

K.A.R. 1-2-74 is an existing regulation that defines “administrative leave” and establishes in what situations it can be used. The regulation currently restricts the use of administrative leave as a reward and the proposed amendment would eliminate that restriction, thereby allowing State agencies to provide paid time off as a reward to State employees.

K.A.R. 1-6-23 is an existing regulation which addresses the reemployment of State employees following a layoff. The regulation establishes the Kansas employee preference program, which provides eligible employees with a preference in reemployment with the State. The primary amendment to this regulation reduces restrictions on the granting of exceptions to the program while other technical amendments update language regarding performance review ratings and the correct the statutory citation for the State’s veterans’ preference program.

K.A.R. 1-7-11 is an existing regulation which grants employees the right to appeal performance ratings received through the State’s performance management process as established in K.A.R. 1-7-10. The amendment to this regulation limits the performance ratings that can be appealed by eligible employees to just ratings of “unsatisfactory” or “needs improvement” instead of any rating less than the highest rating of “exceptional” which is what is currently allowed.

K.A.R. 1-9-23 is an existing regulation that establishes the State’s shared leave program, whereby eligible State employees can receive donations of accrued leave from other State employees. The primary amendment to this regulation limits the amount of sick leave that an employee can donate upon retirement to no more than 80 hours.

K.A.R. 1-14-8 is an existing regulation which addresses the computation of layoff scores for State employees. The regulation provides that layoff scores are calculated by multiplying an employee’s average performance review rating by the employee’s length of service and amendments

are proposed to both variables of the formula. The first such amendment provides that the value of the length of service used in the formula is to be expressed in years rather than months, with partial years broken down to .25 increments. The second amendment changes the value of three of the performance review ratings for the purposes of the formula as follows: the value of a rating of “exceptional” is increased from five to seven; a rating of “exceeds expectations” is increased from four to five; and a rating of “needs improvement” is decreased from two to one. Another amendment to the regulation changes the third tiebreaker in cases of identical layoff scores from the greatest length of service, to the higher average performance review rating used in calculating layoff scores. A final amendment to this regulation eliminates a subsection establishing values for performance reviews conducted prior to the implementation of the current performance management process on October 1, 2009, since such ratings are now outside the five-year period used to calculate layoffs.

K.A.R. 1-14-10 is an existing regulation that establishes procedures for bumping and conferences with impacted employees during the process of a layoff. The primary amendment to this regulation allows agencies to prevent an employee from being laid off regardless of the employee’s layoff score if the loss of the employee’s particular knowledge, skills, abilities, certification, licensure or combination thereof would substantially impair the agency’s ability to perform its essential functions. Language requires that any such action must be approved by the Director of Personnel Services.

II. Reason or Reasons the Proposed Regulation Is Required, Including Whether or Not the Regulation Is Mandated by Federal Law.

None of the regulations are mandated by federal law. K.A.R. 1-2-74 is necessary to define and authorize the use of a type of paid leave that is not accrued by the employee, to be used in situations involving investigations of the employee or in other circumstances in the best interests of the State, as determined by the agency appointing authority. K.A.R. 1-6-23 is required to establish policies and procedures regarding employees returning to State service after being laid off while

K.A.R. 1-7-11 is necessary to establish policies and procedures regarding the appeal of performance review ratings by eligible employees. K.A.R. 1-9-23 is necessary to implement the shared leave program for State employees mandated in K.S.A. 75-5549 and K.A.R.'s 1-14-8 and 1-14-10 are necessary to establish policies and procedures regarding the calculation of layoff scores and the bumping process to be followed when a layoff of State employees is required.

III. Anticipated Economic Impact

The economic impact of the proposed amendments to K.A.R. 1-2-74 will depend on how often administrative leave is provided as a reward for employees. Since such determinations are at the discretion of each agency's appointing authority, there is really no way to accurately estimate the amount of hours that will be used for this purpose. However, since employees' wages are already budgeted and this use of administrative leave can be managed to avoid overtime or other staffing issues for an agency, there will be no actual economic impact on agencies' budgets beyond the loss of productivity of the employee being away from work. In addition, this proposed amendment is anticipated to have a positive impact on employee morale.

The amendments proposed to K.A.R. 1-6-23 will result in efficiencies for State agencies, as they lessen the burden on agencies in seeking an exception to being required to hire a former employee who is not the most qualified applicant for a vacant position. As currently written, an agency would be required to offer a position to an employee exercising preference who is unable to successfully perform the duties of the position at the time of hire even if there was another, better qualified candidate who could begin performing those duties immediately. The amendments to this regulation will allow agencies to obtain an exception to the employee preference policy in such a situation, resulting in both a more competitive and effective hiring process as well as enhanced efficiencies for the agency.

The proposed amendments to K.A.R. 1-7-11 will also result in efficiencies for State agencies, as agency HR and management staff will no longer be required expend time, effort and resources in

preparing for and conducting performance review appeals of “meets expectations” and “exceeds expectations” performance ratings. While these ratings are not appealed very often, the appeal process and the hearing itself are time and information intensive, so eliminating any such proceedings will allow agency HR and management staff to focus on other duties instead of spending time and resources on such appeals.

By limiting the amount of sick leave that can be donated as shared leave by retiring employees, the amendment proposed to K.A.R. 1-9-23 will prevent what several Legislators viewed as “double-dipping” since many retiring employees are paid out for sick leave pursuant to K.S.A. 75-5517 and donate the remainder of their sick leave balance as shared leave at the time of retirement. This practice essentially results in a large shared leave “pool” being available to any employee seeking it rather than donations specifically from a specific donor to a specific recipient, as required in the program. This amendment will therefore close a loophole that has developed in the system, eliminate a practice perceived as “double dipping” at the time of retirement, and potentially result in savings to State agencies.

The proposed amendments to K.A.R. 1-14-8 amend the formula used to calculate layoff scores from being heavily weighted to longevity as it is currently, to a more equal balance between longevity and performance. While these amendments will not result in “bottom line” savings for agencies, as they have no impact on the amount of salary and benefits savings that will be achieved through the layoff process, the amendments will help to ensure that the workforce that is retained after a layoff is made up of an agency’s best performers.

The amendments proposed to K.A.R. 1-14-10 will allow agencies to retain employees with critical knowledge, skills, abilities, certifications or licensure who would otherwise be laid off. Currently, employees who were recently hired who may have been the result of months of recruitment and possess the most up-to-date and/or critical qualifications for an agency are the first ones to be laid off as a result of the way that layoff scores are calculated. Even with the changes to the formula proposed by K.A.R. 1-14-8, recently hired employees are still vulnerable to layoff so this

amendment will address one of the most frequent complaints from agencies going through a layoff by allowing them to retain these critical employees in the midst of a workforce reduction.

IV. Anticipated Financial Impact upon Other Governmental Agencies and upon Private Business or Individuals.

Not applicable. The proposed amendments would apply only to state employees.

V. Anticipated Economic Impact upon School Districts, Following Consultation with the Kansas Association of School Boards.

Not applicable. The proposed amendments would apply only to state employees.

VI. Less Costly or Intrusive Methods That Were Considered, but Rejected, and the Reason for Rejection.

The Department considered, but rejected, not making the proposed amendments. It was determined that compelling reasons exist to amend the regulations as proposed in order to: 1) allow State agencies more flexibility in hiring and retaining employees; 2) eliminate unnecessary appeals and increase administrative efficiency; 3) eliminate perceived “double dipping” and align practices regarding the shared leave program with the intent and requirements of the program; and 4) establish a more balanced formula to calculate layoff scores and allow agencies the ability to retain critical employees during a reduction in workforce.